

Message Text

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15

ORIGIN ARA-20

INFO OCT-01 ADP-00 L-03 COA-02 H-03 EB-11 COME-00 INT-08

TRSE-00 OMB-01 CIAE-00 DODE-00 INR-10 NSAE-00 PA-03

RSC-01 USIA-15 PRS-01 CG-00 /079 R

DRAFTED BY ARA/LA/EP/P:MRRFRECHETTE:EFM

8/9/73:22196

APPROVED BY ARA:JBKUBISCH

ARA-LA/EP:SMPRINGLE

L/C:RHENDERSON

S/FW:WVANCAMPEN

L/C:FKWIATEK

ARA-LA/EP/E:DKGUTHRIE

H:EWMERRY

ARA/PLC:RRIDGWAY

L/ARA:DGANTZ

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R 092334Z AUG 73

FM SECSTATE WASHDC

TO AMEMBASSY LIMA

AMEMBASSY QUITO

INFO AMCONSUL GUAYAQUIL

C O N F I D E N T I A L STATE 157984

E.O. 11652:GDS

TAGS: EFIS, PE

SUBJ: FISHERMEN'S PROTECTIVE ACT NOTIFICATION PROCEDURES

1. TREASURY DEPARTMENT, AS PROVIDED IN SECTION 3(A) OF THE FISHERMAN'S PROTECTIVE ACT (FPA) OF 1967, AS AMENDED, ON JULY 13, 1973 REIMBURSED TOTAL OF 703,080 DOLLARS TO OWNERS OF 22 U.S. VESSELS SEIZED BY PERU BETWEEN DECEMBER 12, 1972 AND JANUARY 24, 1973. TREASURY DEPARTMENT ALSO REIMBURSED TOTAL OF 1,602,336 DOLLARS (1,293,632 DOLLARS ON JULY 13, 308,704 DOLLARS ON AUGUST 2) TO OWNERS OF 22 U.S. VESSELS SEIZED BY ECUADOR
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BETWEEN NOVEMBER 12, 1972 AND FEBRUARY 10, 1973.

SECTION 5(A) OF FPA PROVIDES THAT SECRETARY OF STATE IMMEDIATELY NOTIFY FOREIGN COUNTRY NOT ONLY OF ANY REIMBURSEMENT MADE BY SECRETARY OF TREASURY UNDER SECTION 3 BUT ALSO OF ANY PAYMENTS MADE BY SECRETARY OF COMMERCE UNDER SECTION 7(A) AS RESULT OF SEIZURE OF VESSEL OF THE UNITED STATES BY SUCH COUNTRY. IN ACCORDANCE WITH SECTION 5(A) OF FPA, DEPARTMENT INTENDS TO NOTIFY PERUVIAN AND ECUADOREAN GOVERNMENTS ON AUGUST 13 THAT THESE REIMBURSEMENTS HAVE BEEN MADE. SCENARIOS FOLLOW.

2. ASSISTANT SECRETARY KUBISCH WILL ASK PERUVIAN MINISTER COUNSELLOR (AMBASSADOR BERCKEMEYER OUT OF TOWN) AND ECUADOREAN AMBASSADOR TO CALL SEPARATELY ON HIM AUGUST 13. HE WILL REVIEW VARIOUS PROVISIONS OF FPA DRAWING ON FOLLOWING TALKING POINTS; INFORM EACH THAT REIMBURSEMENTS HAVE BEEN MADE TO VESSEL OWNERS AND HAND EACH AN AIDE MEMOIRE WITH LIST ATTACHED CONTAINING PERTINENT DATA ON SEIZURES FOR WHICH REIMBURSEMENTS MADE. TEXTS OF AIDE MEMOIRES AS FOLLOWS: PERUVIAN TEXT: QUOTE AS MENTIONED IN A CONVERSATION HELD ON THIS DATE BETWEEN THE MINISTER COUNSELOR AT THE EMBASSY OF PERU, THE HONORABLE MANUEL A. ROCA, AND ASSISTANT SECRETARY JACK B. KUBISCH, THE SECRETARY OF THE TREASURY, IN ACCORDANCE WITH SECTION 3(A) OF THE FISHERMEN'S PROTECTIVE ACT OF 1967, AS AMENDED, HAS REIMBURSED THE OWNERS OF 22 VESSELS OF THE UNITED STATES SEIZED BY THE GOVERNMENT OF PERU BETWEEN DECEMBER 12, 1972 AND JANUARY 24, 1973 IN THE AMOUNT OF 703,080 DOLLARS, AS DETAILED IN THE ATTACHED LIST. SUCH NOTIFICATION OF REIMBURSEMENT IS REQUIRED BY SECTION 5(A) OF THE ACT. DEPARTMENT OF STATE, WASHINGTON, AUGUST 13, 1973. UNQUOTE. ECUADOREAN TEXT: QUOTE AS MENTIONED IN A CONVERSATION HELD ON THIS DATE BETWEEN THE AMBASSADOR OF ECUADOR, HIS EXCELLENCY ALBERTO QUEVEDO, AND ASSISTANT SECRETARY JACK B. KUBISCH, THE SECRETARY OF THE TREASURY, IN ACCORDANCE WITH SECTION 3(A) OF THE FISHERMEN'S PROTECTIVE ACT OF 1967, AS AMENDED, HAS REIMBURSED THE OWNERS OF 22 VESSELS OF THE UNITED STATES SEIZED BY THE GOVERNMENT OF ECUADOR BETWEEN NOVEMBER 12, 1972 AND FEBRUARY 10, 1973 IN THE AMOUNT OF 1,602,336 DOLLARS, AS DETAILED IN THE ATTACHED LIST. SUCH NOTIFI-
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CATION OF REIMBURSEMENT IS REQUIRED BY SECTION 5(A) OF THE ACT. DEPARTMENT OF STATE, WASHINGTON, AUGUST 13, 1973. UNQUOTE. LIST TO BE ATTACHED TO AIDE MEMOIRES POUCHED TO EMBASSIES.

3. MR. KUBISCH WILL DRAW ON FOLLOWING POINTS:

(A) FPA WAS FIRST ENACTED IN 1954 AND PROVIDED FOR

REIMBURSEMENT OF FINES PAID BY U.S. FISHERMEN TO SECURE RELEASE OF THEIR VESSELS WHEN SEIZED BY FOREIGN COUNTRIES ON BASIS OF RIGHTS OR CLAIMS IN TERRITORIAL WATERS OR HIGH SEAS WHICH ARE NOT RECOGNIZED BY UNITED STATES.

(B) FPA WAS AMENDED IN 1968 TO INCLUDE REIMBURSEMENT NOT ONLY FOR FINES BUT ALSO FOR FEES AND OTHER DIRECT CHARGES RELATED TO SEIZURE- A GUARANTY PROGRAM WAS ALSO AUTHORIZED TO PROVIDE PAYMENTS FOR ADDITIONAL ECONOMIC COSTS AND LOSSES ARISING FROM THE SEIZURE AND DETENTION OF VESSELS. IN OCTOBER 1972 FPA WAS FURTHER AMENDED TO EXPEDITE PAYMENT OF SEIZURE CLAIMS.

(C) 1972 AMENDMENT ALSO REQUIRES THAT SECRETARY OF STATE NOTIFY FOREIGN COUNTRY OF ANY REIMBURSEMENT MADE BY SECRETARY OF TREASURY AS WELL AS ANY PAYMENT MADE UNDER GUARANTY PROGRAM BY SECRETARY OF COMMERCE AS

RESULT OF SEIZURE OF U.S. VESSEL BY THAT COUNTRY. NOTIFICATION, HOWEVER, IS NOT RPT NOT SANCTION.

(D) ALTHOUGH NOTIFICATION IS REQUIRED BY STATUTE, THERE IS NO REQUIREMENT THAT IT BE MADE PUBLIC. UNITED STATES GOVERNMENT DOES NOT RPT NOT INTEND TO GIVE THIS ACTION ANY PUBLICITY. WE HOPE PERUVIAN AND ECUADOREAN GOVERNMENTS WILL ALSO REGARD NOTIFICATION AS MATTER REQUIRING NO PUBLICITY.

(E) FPA (SECTION 5(B)) ALSO PROVIDES THAT 120 DAYS AFTER COUNTRY HAS BEEN NOTIFIED THAT REIMBURSEMENT HAS BEEN MADE, AND IF THAT COUNTRY HAS NOT PAID THIS AMOUNT TO U.S., SECRETARY OF STATE SHALL TRANSFER AN EQUIVALENT AMOUNT FROM FOREIGN ASSISTANCE FUNDS PROGRAMMED FOR THAT COUNTRY.

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(F) PRESIDENT HAS DISCRETIONARY AUTHORITY WITH RESPECT TO TRANSFERRING FOREIGN ASSISTANCE FUNDS (SECTION 5(B)) WHICH HE CAN EXERCISE AT ANY TIME WITHIN 120 DAYS FOLLOWING NOTIFICATION.

(G) EXECUTIVE BRANCH HAS MADE NO RPT NO DECISION WITH RESPECT TO TRANSFER OF ASSISTANCE FUNDS PROVISION OF FPA. FURTHER, DEPARTMENT WISHES TO STRESS THAT COMPLIANCE WITH NOTIFICATION REQUIREMENT IN NO WAY RESTRICTS EXECUTIVE BRANCH DISCRETION CONCERNING TRANSFER OF ASSISTANCE FUNDS. NOTIFICATION IS NOT RPT NOT DEDUCTION.

4. SHOULD THERE BE ANY PERUVIAN OR ECUADOREAN PUBLIC REACTION TO NOTIFICATION DEPARTMENT INTENDS TO REPLY

TO PRESS QUERIES DRAWING ON POINTS CONTAINED IN SECTIONS (A), (B), (C), (E), (F) AND (G) ABOVE. PRESS GUIDANCE CONTAINED SEPTEL.

5. AMBASSADOR AT LIMA AND CHARGE AT QUITO, AT THEIR DISCRETION, MAY CALL ON RESPECTIVE FOREIGN MINISTRIES ON AUGUST 13 OR THEREAFTER AND INFORM HOST GOVERNMENTS, DRAWING ON ABOVE, THAT ITS EMBASSY WAS OFFICIALLY NOTIFIED OF THESE REIMBURSEMENTS ON AUGUST 13, 1973. ROGERS

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